

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

**No. 15-cv-0770 KG/SMV
14-cr-3643 KG-1**

**JOEL CORDOVA-ORDAZ
aka JOEL ORDEZ-CORDOVA,**

Defendant/Petitioner.

ORDER APPOINTING COUNSEL

THIS MATTER is before the Court on Defendant/Petitioner (“Petitioner”) Joel Cordova-Ordaz’s Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255 (“Motion”), filed on August 31, 2015. [CV Doc. 1, CR. Doc. 29].¹ The Honorable Kenneth J. Gonzales, United States District Judge, referred this matter to me for proposed findings and a recommended disposition. [CV Doc. 5]. Judge Gonzales adopted my recommendation and denied the Motion, except with regard to the issue of whether Petitioner directed his counsel to file an appeal after sentencing. [CV Doc. 10, CR Doc. 40]. The Court will set a limited evidentiary hearing on that one remaining issue.

Because an evidentiary hearing is necessary, I find that appointment of counsel is also warranted. *See Swazo v. Wyo. Dep’t of Corrs. State Penitentiary Warden*, 23 F.3d 332, 333 (10th Cir. 1994) (“[T]here is a right to counsel in a habeas case when the district court determines that an evidentiary hearing is required.”); Rule 8(c) of the Rules Governing

¹ References that begin with “CV” are to Case No. 15-cv-0770 KG/SMV. References that begin with “CR” are to the underlying criminal case, Case No. 14-cr-3643 KG-1.

Section 2255 Cases in the United States District Courts (“If an evidentiary hearing is warranted, the judge must appoint an attorney to represent a moving party who qualifies to have counsel appointed under 18 U.S.C. § 3006A.”); § 3006A(a)(2)(B) (the magistrate judge may appoint counsel to a financially qualified individual moving for habeas relief); *see also* [CR Doc. 8] (appointing counsel to Defendant in the underlying criminal case and, thus, implicitly finding him financially eligible).

IT IS ORDERED, ADJUDGED, AND DECREED that counsel be appointed, consistent with the requirements of § 3006A and this Court’s relevant policies, for the limited purpose of representing Petitioner at the evidentiary hearing.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge